

# EXHIBIT 1



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS AND 01-CV-339

**AMENDED NOTICE OF RULE 30(B)(6) DEPOSITION**

TO: ALL COUNSEL ON ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE that the undersigned attorneys for Plaintiffs shall take the deposition upon oral examination of a representative of each Defendant in this action who is knowledgeable regarding the matters designated on Exhibit "A," attached. These depositions will be taken pursuant to Federal Rule of Civil Procedure 30(b)(6) and will be recorded by stenographic and/or sound and visual means. The depositions will be taken place as follows:

<b>Deponent</b>	<b>Date and Time</b>	<b>Location</b>
Abbott	10:00 a.m.	Within 45 days or on May 10, 2004
Astra Zeneca	10:00 a.m.	Within 45 days or on May 11, 2004



Amgen	10:00 a.m.	Within 45 days or on May 12, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Bristol Myers Squibb	10:00 a.m.	Within 45 days or on May 12, 2004 <sup>1</sup>	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Baxter	10:00 a.m.	Within 45 days or on May 14, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Immunex	10:00 a.m.	Within 45 days or on May 17, 2004	Hagens Berman LLP 1301 Fifth Avenue, Suite 2900 Seattle, WA 98101
Schering Plough	10:00 a.m.	Within 45 days or on May 17, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Aventis	10:00 a.m.	Within 45 days or on May 17, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Dey	10:00 a.m.	Within 45 days or on May 18, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Fujisawa	10:00 a.m.	Within 45 days or on May 18, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Pharmacia	10:00 a.m.	Within 45 days or on May 18, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Watson	10:00 a.m.	Within 45 days or on May 12, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Novartis	10:00 a.m.	Within 45 days or on May 12, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Boehringer	10:00 a.m.	Within 45 days or on May 12, 2004	The Wexler Firm LLP One N. LaSalle Street, Suite 2000 Chicago, IL 60602

<sup>1</sup> To the extent not covered by prior deposition.



Johnson & Johnson	10:00 a.m.	Within 45 days or on May 19, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Pfizer	10:00 a.m.	Within 45 days or on May 19, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110

You are invited to attend and participate.

DATED: April 1, 2004

By Steve W. Berman, signature on file

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## EXHIBIT "A"

### INSTRUCTIONS

All of the definitions from Plaintiffs' Omnibus Requests For Production of Documents Directed to All Defendants are incorporated herein by reference.

"AWPID" refers to all of the drugs identified Appendix A to the AMCC.

"Spread" refers to the difference between AWP or any price upon which reimbursement for a drug is based, on the one hand, and the actual or net price paid for a drug on the other hand.

Unless otherwise specifically stated, each of these Areas of Inquiry encompasses the years 1991 through the present.

### AREAS OF INQUIRY

1. The identity of documents describing the process by which You establish, state, change or are otherwise directly or indirectly involved in setting the AWP, List Price, WAC, Average Sales Price ("ASP"), actual sales price, contract price or any other price for each of Your AWPIDs, and the names or job titles of all personnel involved in said process.
2. The identity of documents describing Your policies or practices concerning the calculation, determination, dissemination, communication or publication of the AWP, List Price, WAC, or any other price for all of Your drugs.
3. The identity of documents containing any definition of AWP, ASP, List Price or WAC.
4. The identity of documents describing the process by which You decide to offer any type of discount, rebate, incentive or penalty in connection with the purchase of any AWPID, and the names or job titles of all personnel involved in said process.



5. The identity of documents identifying all management personnel or management committees responsible for directing, overseeing or coordinating any of the activities referenced in items 1, 2 and 3 above.

6. The identity and nature of any regularly created documents which report, review, comment upon or analyze any price stated or charged for any of Your AWPIDs.

7. The identity and nature of documents describing the method by which You calculate or determine the average sales price for Your AWPIDs, including any determination or rendering of actual transaction costs and/or revenues at any level of the distribution or processing chains.

8. The identity and nature of any regularly created documents which report, review, comment upon or analyze the profit from any of Your AWPIDs.

9. The identity and nature of any regularly created documents which report, review, comment upon or analyze the average sales price, or actual sales prices for any of Your AWPIDs.

10. The nature of Your electronic data or computer databases which relate directly or indirectly to either: (i) the amount of sales, sales prices, discounts or average sales prices for all of Your AWPIDs, and/or (ii) sales and marketing efforts and/or results.

11. The nature of all computer and e-mail systems or networks used by You for internal communications among Your various offices, departments, sub-divisions and employees and the availability of the electronic data created and/or stored on such systems or networks.

12. The nature of Your documents discussing, analyzing or marketing the Spread on any of Your drugs.



13. The location of or identity of documents relating to the nature of Your efforts to market, promote or tout the Spread on any of Your drugs, and the names or job titles of all personnel involved in said efforts.

14. The nature of all documents comparing any price, rebate or incentive for any of Your drugs with any price, rebate or incentive offered for a competing drug.

15. Any information related to any contention by You that the government had knowledge of any pharmaceutical manufacturer's practices and methodologies for setting the AWP for any drug, without regard to time period.

16. The identity of documents regarding communications and agreements between You and any PBM.

17. The identity of documents regarding communications between You and any other pharmaceutical manufacturer regarding: (a) definitions of AWP, ASP, List Price of WAC; (b) calculation, determination, dissemination, communication or publication of AWP, List Price, WAC or any other price; and (c) rebates, chargebacks, free samples or any other marketing practice that an pharmaceutical manufactures contended was inappropriate, illegal, unethical, fraudulent, or otherwise should be ceased.

18. The identity and nature of documents relating to any Government Investigation concerning You or any of Your drugs, including your response to any request for information in connection with any Government investigation and the identities or job titles of all personnel involved with any Government Investigation.

19. The identity of documentation describing Your distribution channels and methods and strategies for distributing each of Your AWPIDs.



20. Your document and e-mail retention or destruction policies, and the steps you have taken to preserve documents since this litigation began.



## CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing PLAINTIFFS' REPLY MEMORANDUM TO DEFENDANT-SPECIFIC MEMORANDA RELATED TO PROPOSED CASE MANAGEMENT ORDER NO. 10 to be served on all counsel of record electronically on 4/2, 2004, pursuant to Section D of Case Management Order No. 2.

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